

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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HARRY PETERSON,

Plaintiff,

- against -

GA TRUCK SERVICES, INC. and JOHN DOE
(intended to be the technician responsible for the
repairs of the defective tire),

Defendants.

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ROSLYNN R. MAUSKOPF, United States District Judge.

ORDER ADOPTING
AMENDED REPORT AND
RECOMMENDATION AND
TRANSFERRING ACTION
12-CV-4174 (RRM) (RML)

On November 25, 2013, Magistrate Judge Robert M. Levy issued a Report and Recommendation (the “R&R”) (Doc. No. 15) recommending that this action be dismissed for failure to prosecute and for lack of personal jurisdiction over defendant GA Truck Services, Inc. By letter dated November 27, 2013 (Doc. No. 16), plaintiff’s counsel requested that this action be transferred to the District of New Jersey. On December 4, 2013, Magistrate Judge Levy issued an Amended Report and Recommendation (the “Amended R&R”) (Doc. No. 17), recommending that the Court transfer venue to the United States District Court for the District of New Jersey because, as plaintiff concedes, this Court lacks personal jurisdiction over defendant GA Truck Services, Inc.

Magistrate Judge Levy reminded the parties that, pursuant to Rule 72(b), any objections to the Amended R&R were due within fourteen days of its receipt. No party has filed any objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court has reviewed the Amended R&R for clear error and, finding none, concurs with the Amended R&R

in its entirety. *See Covey v. Simonton*, 481 F.Supp.2d 224, 226 (E.D.N.Y. 2007). Accordingly, it is hereby ordered that the Amended R&R is adopted in its entirety.

CONCLUSION

As such, and pursuant to 28 U.S.C. § 1406(a), the Clerk of the Court is directed to transfer this case to the United States District Court for the District of New Jersey. In addition, in light of the issues regarding this Court's personal jurisdiction over defendant GA Truck Services, Inc. as set forth in Judge Levy's original R&R and conceded by defendant's counsel, the Court vacates the Clerk's Entry of Default, entered against defendant GA Truck Services on August 20, 2013 (Doc. No. 10), and leaves to the transferee court all issues related to service of the summons and complaint as to this and any other defendant.

The Clerk of Court is further directed to close the file in this court.

SO ORDERED.

Dated: Brooklyn, New York
December 24, 2013

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge